

**REMARKS**

The present amendment is submitted in response to the Office Action mailed December 7, 2004. Claims 1-21 are currently pending in the application. In view of the amendments above and remarks to follow, reconsideration and allowance of this application are respectfully requested.

**Specification**

In the Office Action, the abstract of the disclosure was objected to because line 1, "is disclosed" should be deleted. By means of the present amendment, the current Abstract has been amended as shown in the enclosed Replacement Abstract in a manner which is believed to overcome the objection. Withdrawal of the objection is respectfully requested.

**35 U.S.C. §102(e)**

Claims 1, 3-7, 9-12 and 16-21 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application 2003/0050834 (hereinafter Caplan).

Applicants respectfully traverse the rejection of claims 1, 3-7, 9-12 and 16-21 under 35 U.S.C. §102(e). It is respectfully submitted that claims 1, 3-7, 9-12 and 16-21 are patentable over Caplan for at least the following reasons.

Caplan, as understood by the Applicants, relates to a method for turning the idle time on computers on a network into a useful, dynamic, interactive portal by replacing the

screensaver. One stated objective of Caplan is to provide marketers the ability to reach an audience by always being a part of the client's computer desktop, or any Operating System application environment, whether in the form of a dynamic portal replacing the screensaver or as an alert icon sitting in the system tray. As a further object, the method of Caplan further provides a preferred peer to peer broadcasting application network with affinity incentives.

As taught in Caplan, a centralized server is provided, capable of handling multiple connections efficiently. Customized software is provided at the centralized server to randomly choose IP addresses and select IP addresses for incentive oriented prizes or offers (see Caplan at par. 76). Applications can reside on client nodes such that custom software will be able to work on the known hardware (see Caplan at par. 77).

As taught in Caplan, clients (i.e., computers) on the network, at startup load graphic files and other user details from a local database. The graphic files are supplied by and created by a distributor. Thereafter, means are provided to allow the clients to continuously check for user inactivity, determining the appropriate time for the client to update application files from the central network or selected node, as well as when it is time to activate application functionality, such as display a new slide, video or digital information flow. At a point of user inactivity, the portal, at step 15, uses a playlist of stills and videos from the last time it ran. The portal loads all relevant information related to the next slide in the playlist it is about to show (see Caplan at Par. 105).

Caplan teaches a peer to peer network operating system that allows users to share devices, files with any networked computer. This feature allows “the portal”, to update application files from the central network or a selected node. Caplan, at par. 111, discloses that any network can share its drives and environment while running application programs. In this manner, the method of Caplan utilizes a peer to peer intercasting method of using other nodes to supply missing data when constructing a playlist to be played during a point of user inactivity (see Caplan at par. 138).

In the Office Action, the Examiner rejects Claim 1 alleging that Caplan discloses a system for peer-to-peer access to a collection of data comprising:

- (a.) a “musicbox” (wherein musicbox allegedly reads on “media player”) and
- (b.) software executing in the musicbox, wherein the software is allegedly capable of performing elements i – v.

The Applicant respectfully traverses the rejection with regard to Claim 1. In the rejection of Claim 1, the Examiner alleges that the “musicbox” of the invention reads on “media player” and cites par. 109 of Caplan in support:

[0109] If the portal makes it to step 27 without any interaction on the user's part, then the video timer, step 28, is checked to see if a video should be thrown into the mix. If this is the case control is then routed to steps 30 through 33 where the process for loading a slide is virtually duplicated. The next video in the playlist is loaded, as are all the links that correspond to the buttons shown during the video. The data is recorded in the activity log and the video is played. The upper 80 percent of the screen (58) can contain the graphics, text and a video for this presentation. In the immediate embodiment, the toolbar (59) is located at the bottom of the screen but can be customized to be positioned anywhere on a screen plane and made opaque or transparent. It has a logo (55) which can be customized to promote the distributor of the portal, multiple controls ("Go to Web", "Buy Now", "Bookmark", "Tell a friend", as well as VCR, Volume, Mute and others functional applications (56) which are used by the user to navigate or transact with the slide should they wish to. A Mute indicator (57) is also used so with just a glance the user is aware of the current state of the audio or other media players. Until the end of video is confirmed at step 30, a timer at step 29 checks for user interaction with the video. These steps are looped until the end of video is confirmed, where control is returned to step 16, the loading of the next slide in the playlist.

It is respectfully submitted that the media player as recited in par. 109 does not teach or disclose the musicbox of the invention, as alleged in the rejection of Claim 1.

Par. 109 is directed to a method, referred to in Caplan as "the portal". The "portal" is a method for turning the idle time on computers on a network into a useful dynamic, interactive portal by replacing the screensaver. The "portal" method utilizes in each client (running the portal) the client's Windows media player from Microsoft to execute playlists of files stored at the client or retrieved from other clients in the network. As is well known to those in the computer arts, the Microsoft windows media player may be defined as:

A program that allows you to play and manage audio and video files. Some programs also offer ripping, burning, and visual effects. Examples include: iTunes, Winamp, Windows Media Player, Sonique, Quintessential, Musicmatch Jukebox.

As such, the media player of Caplan does not include: i.) a persistent data store containing a plurality of individually selectable data files, ii) a data communications interface operatively connected to a data communications network to effect a peer-to-peer network, and iii) a controller operatively connected to the persistent data store and the data communications interface, as recited in Claim 1. Accordingly, it is incorrect to equate the media player of Caplan to the musicbox of the invention.

In the Office Action, the Examiner further rejects Claim 1 alleging that the "software executing in the musicbox" of the invention is taught in Caplan at pars. 76-77. Applicant disagrees. Pars. 76-77 of Caplan recite:

[0076] Customized software is provided to randomly chose IP addresses and select IP addresses for incentive oriented prizes or offers. Such software can be written in any computer language: C, C++, Visual Basic, Java, and other languages able to communicate with a SQL database.

[0077] Applications can reside on client nodes such that custom software will be able to work on the known hardware. Software applications can be written in any computer language such as C, C++, Visual Basic, Java, and other languages that would be combined with third party libraries that already have built in low-lever graphics, communications, and database functions

The reference to “customized software” as taught in Caplan at pars. 76-77 refers to customized software provided in a Game Server (see Caplan, par. 75).

[0075] A Game Server is provided which could be a single computer connected via a network to a centralized server database. In one embodiment this hardware can be a known desktop computer.

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It is respectfully submitted that, based on at least the above, at least the limitations and/or features of independent Claim 1 is believed to be patentably distinct over Caplan. Therefore, reconsideration and withdrawal of the rejection is respectfully requested and allowance of claim 1 is respectfully requested.

Claims 3-7, 9-12 and 16-20 depend from independent Claim 1 and therefore contain the limitations of Claim 1 and are believed to be in condition for allowance for at least the same reasons given for Claim 1 above. Accordingly, withdrawal of the rejection under 35 U.S.C. §102(e) and allowance of Claims 3-7, 9-12 and 16-20 is respectfully requested.

Independent Claim 21 recites similar subject matter as Claim 1 and therefore contain the limitations of Claim 1. Hence, for at least the same reasons given for Claim 1, Claim 21 is believed to recite statutory subject matter under 35 U.S.C. §102(e).

Accordingly, it is respectfully requested that the rejection under 35 U.S.C. §102(e) of independent claim 21 be withdrawn, and independent claim 21 be allowed.

**35 U.S.C. §103(a)**

Dependent Claims 2, 8 and 13-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Caplan in view of U.S. Patent Publication No. 2001/0051996 (hereinafter Cooper).

Claims 2, 8 and 13-15 depend from Claim 1 and therefore includes the limitations of Claim 1. Accordingly, for the same reasons given above for Claim 1, Claims 2, 8 and 13-15 are believed to contain patentable subject matter. Accordingly, withdrawal of the rejections with respect to Claims 2, 8 and 13-15 and allowance of Claims 2, 8 and 13-15 is respectfully requested.

**Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-21 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Dicran Halajian, Esq., Intellectual Property Counsel, Philips Electronics North America, at 914-333-9607.

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